IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 4777 of 1993

Between:

1 N.Janardhan Reddy (Died), S/o.Chenna Reddy,
R/o.Tarnikal (V) Mahaboobbnagar Dist.
2 N.Yadamma W/o.Late Sri Janardhana Reddy,
R/o.Barkathpura Hyderabad.
3 N.Rajendar Reddy, S/o.Late Sri N.Janardhana Reddy,
R/o.Tarnikal Kalvakurthi (M),Mahaboobnagar Dist.
4 N.Vijayendar Reddy, S/o.Late Janardhan Reddy,
R/o.Barkathpura Hyderabad.

The Legal Representatives of the first petitioner are brought on
record as petitioner Nos.2 to 4 by the Court order dated 05-09-2001
in W.P.M.P.No.19767 of 2001.

…..PETITIONERS

AND

1. The Commissioner for Workmen Compensation-cum-Deputy Commissioner for Labour, Rangareddy District Zone, 8th Floor, Chandra Vihar Complex, M.J.Road.
Hyderabad-500 001.
2. Smt Devamma, W/o.Late Papaiah
R/o.Tranikal Village Kalwakurthy Taluk,
Mahaboobnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records in W.C.55/85(f) on the file of the 1st respondent herein, namely commissioner workmen

compensation, and quash its order dated 4-9-1992 served on my counsel on 23-3-1993, on the ground that the same is passed by a person without authority in law, as illegal, arbitrary and with malafide intentions as otherwise the petitioner will suffer grave and irreparable loss and to pass such other order or orders.

Counsel for the Petitioner : MR.V.HARI HARAN

Counsel for the Respondent No.1: The GP FOR LABOUR

The Court Made the Following :

ORDER:

1) This Writ Petition is filed challenging the order passed by the Commissioner for Workmen Compensation-cum-Deputy Commissioner of Labour, Ranga Reddy District in W.C.No.55 of 1985(F) dated 04-09-1992, and to quash the same.

2) The second respondent filed an application before the Commissioner for Workmen Compensation in respect of death of her husband, who is alleged, to have died during the course of his employment. It is stated by the petitioner that the matter was reserved for orders and ex parte order was passed on 18-06-1992. But, however, an application was filed by the petitioner on 26-06-1992 to reopen the matter. The said application was numbered as I.A.No.4705 of 1992, however, no order was passed. In the meanwhile, the then Commissioner for Workmen's Compensation (Deputy Commissioner for Labour) retired from service on 30th September, 1992. But curiously he received an order which was dated 04-09-1992 and received by him on 23-09-1993, allowing the application under Workmen's Compensation for a sum of Rs.20,000/-. Aggrieved by the said order, the present writ petition has been filed.

3) The learned counsel for the petitioner submits that the order of

the Commissioner for Workmen's Compensation is wholly erroneous and contrary to law. When an application was filed to reopen the matter on 26-06-1992, he could not have passed an order on 4-9-1992 without hearing him. He further submits that the order was antedated after he retired from service; therefore, he submits that the order passed by the Commissioner is unsustainable. Therefore, the matter requires reconsideration in the hands of the present incumbent. The learned counsel for the workmen also submits that the order though received by the petitioner on 23-03-1993, it was in fact passed on 04-09-1992. He further submits that by passing the order on 04-09-1992, it has to be presumed that the application filed by the petitioner on 05-07-1992 is deemed to have been rejected.

4) Heard the learned Counsel appearing for the petitioner and also the learned Government Pleader for Labour. There is no dispute that the matter was reserved on 18-06-1992. But, however an application was filed on 05-07-1992 to reopen the same in I.A.No.4705 of 1992. Without disposing of the same, it would not be appropriate for the Commissioner to pass an order on 04-09-1992, which was received by the petitioner on 23-03-1993. Obviously, the grievance made by the petitioner appears to be genuine.

5) Under these circumstances, in order to render substantial justice, I am of the view that the matter requires reconsideration. Accordingly, the order passed by the Commissioner in W.C.No.55 of 1985 dated 04-09-1992 is set aside and the matter is remitted back to the first respondent for fresh disposal in accordance with law. The first respondent shall issue notice to the claimant as well as to the petitioners, who are the Legal Representatives of the original petitioner and after hearing them, pass appropriate orders in accordance with law, within a period of four months, from the date of receipt of a copy of this order.

The Writ Petition is accordingly allowed. No order as to costs.

Jsu/Ka

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner for Workmen Compensation-cum-Deputy Commissioner of Labour, Rangareddy District Zone, 8th Floor, Chandra Vihar Complex, M..J.Road, Hyderabad-500 001.
2. Two CCs to the G.P. for Labour, High Court Buildings, Hyderabad, (OUT).
3. Two CD copies.

THE HON'BLE SRI JUSTICE G.BIKSHAPATHI

W.P.NO.15809 of 1994

Date 17.06.2004